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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

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CC Docket No. 92-77

ORIGINAL
FILE

**REPLY COMMENTS OF VALUE-ADDED COMMUNICATIONS, INC.
ON PROPRIETARY 0+ CALLING CARDS**

The clear majority of the comments in connection with the Commission's expedited consideration of "0+" calling card issues¹ favor a rule requiring the sharing of billing and validation information among all carriers. Except for some (but not all) LECs and AT&T—who have benefited from a "0+" monopoly built upon discriminatory and unlawful calling card validation practices—virtually all commenters supported restricting "proprietary" calling cards from being used for 0+ calls. Indeed, BellSouth and Pacific Bell both called for limiting use of AT&T's CIID card to access code dialing, noting that proprietary cards "foreclose competition from other OSPs"² and that "by opening access to validation data among all providers, consumers will be able to place their calling card calls on a 0+ basis from all stations."³

Most parties which oppose the proposal for sharing CIID card validation data merely assert that Commission action is "unnecessary." Yet the need for FCC action in calling card validation cannot be more apparent. AT&T's misleading and anticompetitive tactics in the operator services market have repeatedly been

¹ Notice of Proposed Rulemaking, Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77, FCC 92-169, ¶¶ 43, 54 (released May 24, 1991).

² BellSouth Comments, at 3.

³ Pacific Bell and Nevada Bell Comments, at 5.

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brought to the Commission's attention for more than one year, and the Commission has already ruled that its decision on "joint use" LEC cards "appl[ies] equally to validation data for RAO or line-based cards that have been reclassified as CIID cards" and "irrespective of the conversion of any of these account numbers to the CIID format or any other numbering scheme."⁴

The few remaining contentions presented in opposition to barring 0+ "proprietary" cards are invalid and hardly compelling. First, several LECs suggest that sharing of CIID card validation information would lead to a decrease in their intraLATA revenues.⁵ The financial basis for such arguments is not clear, since LECs would earn access revenues (and in many cases revenues from transport resale and billing & collection as well) from 0+ intraLATA calling card calls placed with competing carriers. More importantly, however, these comments underscore the fact that present arrangements for intraLATA sharing of CIID card validation information are unlawfully discriminatory under Title II of the Communications Act. AT&T shares validation information for its "proprietary" calling cards with LECs for intraLATA calls, thus providing a service to some intraLATA competitors, but not others. The intraLATA revenues the LECs are seeking to protect are hence a direct product of their shared 0+ monopoly with AT&T. Just as the Commission eliminated LEC card discrimination in favor of AT&T in the CBT Order, it should now act to eliminate AT&T card discrimination in favor of LECs.⁶

Second, AT&T argues that its CIID cards are somehow exempt from Title II regulation.⁷ Despite its contortions, AT&T cannot legitimately believe that

⁴ Cincinnati Bell Telephone Co., 6 FCC Rcd 3501, ¶¶ 24, 26 (1991).

⁵ E.g., NYNEX comments, at 2; Bell Atlantic Comments, at 3; GTE Comments, at 6; see Southwestern Bell Comments, at 5 ("stranded investment" made to support proprietary IXC calling card).

⁶ See VAC Comments, at 4-5 & n.7; International Telecharge Comments, at 16-17.

⁷ AT&T Comments, at 4.

the Commission's May 1992 orders already answered the question at issue in this docket, or else there would have been no need for the FCC to initiate an expedited comment period on 0+ proprietary cards. AT&T's contrived reading of the Commission's prior rulings is disingenuous. The Commission specifically held in the Joint Use decision that validation and associated functions are Title II services as defined by the Act, not billing and collection services of the kind detariffed in 1986.⁸ AT&T's CIID cards should be subject to a validation sharing requirement not because they are "LEC joint use" cards, but because AT&T's Title II status as a dominant carrier makes it unlawful for AT&T to provide validation functions for intraLATA usage of its cards to some but not all competing OSPs. Thus, the Commission has a plain—and essentially conceded—"jurisdictional predicate for granting this relief."⁹

Third, AT&T and others suggest that limiting "proprietary" cards to "access" dialing is technically infeasible.¹⁰ This is simply false. Last year the Commission ordered all carriers, including AT&T, to make 950 and "800" numbers available for calling card access. Since these proprietary access numbers are thus available—for which traffic is routinely and easily distinguishable from 0+ calls—all carriers have the technical means available to offer purely "proprietary" calling card arrangements.¹¹ The only way in which access dialing is "infeasible" is that, according to AT&T, its network cannot distinguish between 0+ and 10XXX+0 traffic

⁸ Compare AT&T Comments, at 4 ("billing functions such as those involved here are not subject to regulation") with Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 91-115, FCC 92-168, ¶¶ 18-26 (released May 8, 1992) ("validation and associated functions" are "ancillary" communications services under Title II of the Communications Act).

⁹ AT&T Comments, at 4.

¹⁰ E.g., AT&T Comments, at 8-9.

¹¹ Contrary to at least the purpose of the Commission's rules, AT&T has refused to make public its "800" number for calling card traffic, even when directly asked during public industry meetings.

delivered by LECs. However, the fact that AT&T's preferred access mechanism may not work satisfactorily is no excuse; there are feasible alternatives readily available to AT&T, and numerous small and medium-sized carriers already offer calling cards which distinguish between 10XXX+0 and 0+ calls.¹² If any carrier cannot technically distinguish between 10XXX+0 and 0+ calls, therefore, it should be precluded from accepting "proprietary" card calls by either access mechanism.¹³

Fourth, virtually all opponents of the proposal for sharing of 0+ calling card validation information maintain that it would increase "consumer confusion" and deprive carriers of their calling card investments. To the contrary, the present situation of public phone presubscription creates confusion for some consumers precisely because some carriers have sought to convert "0+" into a "proprietary" dialing arrangement. Thus, 0+ calling card calls will be completed at some locations, blocked at others and routed to an intercept recording or an operator at others, solely because some carriers have unilaterally chosen to withhold validation information from the presubscribed 0+ carrier for the phone. The remedy offered by CIID card validation is one which *reduces* confusion for all consumers by creating two simple dialing schemes: 0+ for calls carried and billed by the presubscribed carrier, or carrier-specific access dialing (800/950/ 10XXX) for calls carried and billed by a specific carrier.¹⁴

Equally important, Commission action in mandating 0+ validation sharing would not compromise any carrier's investment in calling card technology,

¹² VAC understands that these travel cards require the user to input a PIN for validation purposes (much like AT&T's Universal Card). 10XXX calls are routed to the OSP's automated travel card processor, while 0+ calls are routed to an operator center which is not equipped to validate travel cards PINs. Alternatively, some IXCs accepting propriety cards have the calling party preface the called number with an additional, standard symbol (i.e., #) which causes the IXC/OSP switch to route the calls in a unique fashion.

¹³ While AT&T claims that LEC delivery of information distinguishing 0+ from 10XXX+0 calls is only possible under Signalling System 7 (AT&T Comments, at 8), NYNEX admits that a software solution is available now, prior to deployment of SS7 (NYNEX Comments, at 2-3).

¹⁴ See Pacific Bell Comments, at 5 (0+ "mutuality" would produce "less confusion than exists today").

deployment or customer data, since carriers could choose limited access mechanisms to preserve the true "proprietary" status of cards. And the investment OSPs have made over the past four years in network and related infrastructure to compete for public phone and aggregator 0+ presubscriptions will itself be rendered virtually worthless if OSPs are deprived of their ability to bill calls to the 0+ calling cards offered by AT&T and other carriers. Thus, having sanctioned the sharing of validation information in the first instance, the Commission should mandate its extension where the circumstances still require, as they do here since (as BellSouth points out) AT&T has "exclusive possession of current validation data, obtained through AT&T's activities as a dominant interexchange carrier and not subject to replication by OSP competitors."¹⁵

The length some opponents have gone to concoct rationales for limiting validation sharing is remarkable. AT&T suggests that its calling cards are just like retail credit cards, and that a Sears card "cannot be used to make purchases from competing retailers."¹⁶ While it is of course true that a consumer cannot use a Sears card at a J.C. Penney store, Sears does not market its card for use at other stores. AT&T, in contrast, markets its calling cards for use at locations where AT&T has failed to win customers. This is comparable not just to Sears insisting that consumers should be able to use its card as a billing mechanism in someone else's retail locations, but also that Sears' "Kenmore" products should be available on the retailer's shelves, in a mall where Sears has no stores, even where the retailer has an exclusive contract with Maytag or another appliance vendor. AT&T wants consumers to be able to buy its products and use its cards in every communications "store" in the country, but only on a "direct-from-the-manufacturer" basis. The real

¹⁵ BellSouth Comments, at 3.

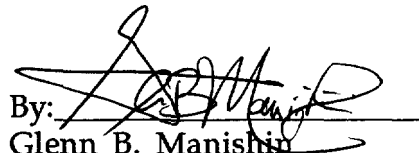
¹⁶ AT&T Comments, at 2 n.*.

parties harmed are thus the retailers (aggregators) themselves, who need to make substantial investments in communications systems only to find that their customers can entirely avoid contributing to the cost of operating those systems merely by dialing "0+."

CONCLUSION

The Commission should immediately adopt the proposal for making "0+" calling cards a "public domain" resource by requiring that validation and billing information for all calling cards, in any format, which are accepted by the issuing carrier for "0+" calling be made available to all OSPs.

Respectfully submitted,

By: 

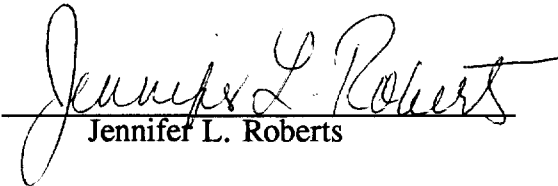
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Dated: June 17, 1992.

CERTIFICATE OF SERVICE

I, Jennifer L. Roberts, do hereby certify on this 17th day of June, 1992, that I have served a copy of the foregoing **REPLY COMMENTS OF VALUE-ADDED COMMUNICATIONS, INC. ON PROPRIETARY 0+ CALLING CARDS** to all parties of CC Docket No. 92-77 via first class mail, postage prepaid, and have also served a copy to the persons listed below via hand delivery.


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